

DETAILED ACTION

1. The Amendment filed February 8, 2010 has been received and considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,102,109 to Schnetz.

Regarding Claim 1, Schnetz discloses a method for regulating the hydraulic resistance of a shock absorber (see Figure 1) during the operation thereof, which includes forced flow of a hydraulic fluid through a small open flow area 46 from a blind side 5 towards a rod end 24 and back from the rod end towards the blind side (see column 5 lines 57-62) having all the features of the instant invention including: that the open flow area 46 is created with varying capacity that is achieved with the use of mutually traveling metering components 6/49 (see column 6 lines 4-11) and is changed through the effect of hydraulic pressure differences on the metering components 6/49 at the blind side 5 and the rod end 24 so that a capacity decrease (i.e., when pin 49 is moved farther into area 46) is caused by an increase of the load at the shock absorber (see column 6 lines 33-42).

Regarding Claim 2, see Claim 1 above.

Regarding Claim 3, see Claim 1 above and further note that Schnetz also discloses that when a pressure difference increases between the rod end 24 and the blind side 5, a capacity of the open flow area 46 between the rod end 24 and the blind side 5 is reduced by using mutually traveling metering components 6/49, wherein at least one of the metering components 6 is moved by applying hydraulic pressure on it (see column 6 lines 8-11), which results in changing mutual overlapping of the metering components 6/49, creating a pass 46 with variable capacity (see column 6 lines 33-42).

Regarding Claim 4, Schnetz further discloses that the variable capacity is created by changing a length of the pass 46, which is created by changing mutual overlapping of the metering components 6/49 (note: as element 6 moves down, pin 49 is forced into pass 46, thus, effectively changing the length of the pass 46).

Regarding Claim 5, the same logic as used in the Claim 4 rejection applies here as well, wherein as element 6 moves down, pin 49 is forced into pass 46, thus, effectively, changing the area of the pass 46.

Regarding Claim 6, see shock absorber 16.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,102,109 to Schnetz.

Regarding Claims 7 and 8, Schnetz discloses most all the features of the instant invention as applied above, except for the method's use in a vehicle and/or vehicle suspension containing the shock absorber.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the method of regulating hydraulic resistance of the shock absorber of Schnetz in a vehicle and/or vehicle suspension as this type of damping method would provide an effective damping means for a vehicle. The method disclosed by Schnetz would provide a smoother more controlled damping for a vehicle thus providing a better and more comfortable ride for the driver.

Response to Arguments

6. Applicant's arguments filed February 8, 2010 have been fully considered but they are not persuasive.

Firstly, applicant argues that Schnetz does not identically disclose a "method for regulating the hydraulic resistance of a shock absorber during the operation thereof" as recited in independent Claims 1-3. In particular, applicant contends that Schnetz does not disclose that "hydraulic pressure differences on the metering components" cause the capacity of the open flow area to changed (as recited in Claims 1 and 2) or "at least one of the metering components is moved by applying hydraulic pressure on it" (as recited in Claim 3).

In response to this, with respect to Claims 1 and 2, the examiner contends that when the pin 49 of Schnetz is moved farther into area 46, a hydraulic pressure difference would be created, as the flow area 46 would be made smaller by the entrance of the pin therein. This mere introduction of the pin 49 into the flow area 46 would create at least some sort of hydraulic pressure change, i.e., a difference, on the metering components 6 and 49 themselves and hence also cause the capacity, i.e., the size, of the open flow area, to be changed as well. This action is enough to read on the claim language. While, the examiner recognizes that this type of metering action alone is not what generates hydraulic pressure differences on the metering components of applicant's invention to cause the capacity of the open flow area to be changed, the claim language does not reflect this. Perhaps, a more specific claiming of what the hydraulic pressure differences on the metering components entail would overcome this rejection.

In response to these same remarks, with respect to Claim 3, the mere act of a load being placed on the shock of Schnetz itself would force the piston 6 to be moved by the hydraulic pressure present in the chamber 14. Therefore, again, this particular action is enough to read on the Claim 3 language.

Applicant also argues that the piston 6 of Schnetz is moved by physical travel of the shock rod 16 and not by hydraulic pressure differences or hydraulic pressure as required in Claims 1-3. The examiner again reiterates, as stated above, it is the claim language which is at issue here. Hydraulic pressure differences and hydraulic pressure

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are present throughout the shock of Schnetz and when interpreted as outlined above, provide the required metes and bounds of applicant's claims.

With respect to applicant's remarks regarding Claims 7 and 8 and their claiming of the method for regulating hydraulic resistance of a shock absorber during the operation thereof in a vehicle or vehicle suspension, the same examiner logic applies here as well. Schnetz discloses the limitations of Claims 1-8, at least when given its broadest reasonable interpretation, and thus the rejections of the claims have been maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM - 4 PM and Tuesdays 8 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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04/13/10